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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,883	04/13/2000	Michael I. Watkins	2558B-061300US	7641

7590 07/27/2006

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EXAMINER

GABEL, GAILENE

ART UNIT PAPER NUMBER

1641

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/548,883

Applicant(s)

WATKINS ET AL.

Examiner

Gailene R. Gabel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 23-25, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|---|--|

SUPPLEMENTAL OFFICE ACTION

Applicant's Response

1. Applicant's amendment and response filed October 12, 2005 is further acknowledged. Claims 23-25, 29 and 30 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being claims drawn to a non-elected invention. Claims 1-30 are pending. Claims 1-22 and 26-28 remain under examination.

Maintained Rejections

Claim Rejections - 35 USC § 103

2. Claims 1-2, 7-15, 18, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins et al. (WO 99/26067) in view of Dietzen (US 5,795,789) and in further view of Weckermann (WO 95/02824) for reasons of record.
3. Claims 20-22 and 26-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins et al. (WO 99/26067) in view of Dietzen (US 5,795,789) and in further view of Weckermann (WO 95/02824) as applied to claims 1-2, 7-15, 18, and 19 above, and further in view of Frengen (US 5,723,346) for reasons of record.
4. Claims 3, 16, and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins et al. (WO 99/26067) in view of Dietzen (US 5,795,789) and in further view of Weckermann (WO 95/02824) as applied to claims 1-2, 7-15, 18, and 19 above, and further in view of Smith et al. (US 4,332,784) for reasons of record.

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5. Claims 4 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins et al. (WO 99/26067) in view of Dietzen (US 5,795,789) and in further view of Weckermann (WO 95/02824) as applied to claims 1-2, 7-15, 18, and 19 above, and further in view Frieden et al. (J. Biol. Chem. (1948), 176, 155-63) and Block et al. (J. Med. Chem. (1976), 19(8), 1067-9) for reasons of record.

Response to Arguments

6. Applicant's argument filed October 12, 2005 has been fully considered and is further acknowledged.

A) Applicant argues that current Rule 78 is not applicable to the present application which was filed on April 13, 2000 because a change was enacted upon Rule 78 which became effective on November 29, 2000. Applicant contends that the change was expressly made applicable only to patent applications filed after November 29, 2000.

Upon further consideration of Applicant's response filed on October 12, 2005, the requirement of a 37 CFR 1.131 affidavit or declaration as set forth in page 4 of the Office Action mailed to Applicant on April 20, 2006 is being withdrawn. In place thereof, Examiner requires Applicant to 1) adequately amend the specification as set forth on July 15, 2005 to reflect that the instant application is a CIP of ASN 09/302,920, which is now US Patent 6,280,618, and 2) submit a properly executed CIP oath or declaration reflecting the relationship between the instant application and ASN 09/302,920, if

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Applicant were to intend to antedate the current prior art of record. In so doing, the priority of the instant application and the prior art of record will be reconsidered accordingly.

Allowable Subject Matter

7. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

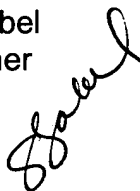
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gailene R. Gabel whose telephone number is (571) 272-0820. The examiner can normally be reached on Monday, Tuesday, and Thursday, 7:00 AM to 4:30 PM.

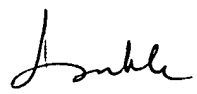
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gailene R. Gabel
Patent Examiner
Art Unit 1641
July 20, 2006




LONG V. LE 07/21/06
SUPERVISORY PATENT EXAMINER
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